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January 11, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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JAN 11 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte Presentation
CC Docket No. 92-297

Dear Mr. Caton:

Enclosed please find two copies of a letter which was submitted today to the Chairman, the Commissioners, the Chairman's senior staff, the Commissioners' senior staff, the Chief Engineer and the relevant LMDS rulemaking staff.

Please place two copies of this submission into the above-referenced docket. Any questions regarding this letter or the enclosure should be directed to the undersigned.

Very truly yours,


Tom W. Davidson

Enclosure

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January 11, 1994

BY HAND DELIVERY

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Re: Local Multipoint Distribution Service
CC Docket No. 92-297

Dear Chairman Hundt:

The undersigned are members of the Coalition to Preserve the Primary Status of the 27.5-29.5 GHz Band for Satellite Services (the "Coalition"). For the reasons stated below, the Coalition respectfully requests that the Federal Communications Commission ("FCC" or "Commission") either (1) hold its decision in the above-referenced rulemaking in abeyance until interested parties have had an opportunity to respond to recently-filed ex parte and other submissions by Suite 12 Group and Video/Phone Systems, Inc. that address significant technical issues; or (2) issue a Further Notice of Proposed Rulemaking in which their filings will be subject to public comment before the Commission reaches a decision in Docket 92-297.

On December 3, 1993, members of the Coalition met with FCC staff members to advocate their position with regard to the Docket 92-297 rulemaking. Specifically, the Coalition seeks to preserve the primary status of satellite services in the 28 GHz band. The Coalition is concerned that if Local Multipoint Distribution Service ("LMDS") is authorized in the 27.5-29.5 GHz Band, the Fixed Satellite Service will, as a practical matter, be relegated to de facto secondary status.

Since December 3, 1993, proponents of the LMDS have made a number of ex parte contacts with the Commission with regard to issues central to Docket 92-297. These ex parte contacts have gone beyond mere advocacy to include engineering and other technical filings purporting to establish facts relevant to resolving the issues of sharing between satellite and LMDS users, the amount of spectrum needed for LMDS, and the feasibility of the use by LMDS of other spectrum.

Based on a review of the FCC's files, it appears that the LMDS proponents made the following ex parte contacts:

- December 3, 1993. Representatives of Video/Phone Systems, Inc. and Endgate Technology Corporation met with the FCC staff to discuss the ability of terrestrial LMDS to share spectrum with satellite systems in the 28 GHz band.

- December 6, 1993. In a letter to Chairman Hundt, counsel for Suite 12 Group enclosed several engineering studies purporting to show that LMDS would not interfere with the National Aeronautics and Space Administration ("NASA") Advanced Communications Technology Satellite ("ACTS") system in the 28 GHz band.
- December 16, 1993. Counsel for Suite 12 Group met with FCC staff and presented a study and accompanying engineering statements to attempt to refute the argument that the Commission should authorize LMDS in the 40.5 - 42.5 GHz band.
- December 20, 1993. Counsel for Suite 12 filed with the Commission several press articles purporting to raise questions concerning the technical and economic feasibility of LMDS currently using digital compression technology.

It is apparent that the ex parte contacts include technical information presented to the Commission to attempt to substantiate the need for 2 GHz of spectrum in the 28 GHz band for LMDS and the economic and technical feasibility of co-primary sharing between LMDS and satellite users in the 28 GHz band. The technical submissions may form a basis for the resolution of some of the complex issues in Docket 92-297. Because Docket 92-297 may be considered at the Commission's meeting of January 19, 1994, further ex parte contacts concerning Docket 92-297 will not be permitted after January 12, 1994. The Coalition respectfully submits that this is insufficient time in which to respond to the substantial technical issues raised by the ex parte filings. Specifically, the Coalition requests an opportunity to respond to the issues of whether co-primary sharing by LMDS and satellite users is possible and whether to allocate spectrum in the 28 GHz band to LMDS, and if so, how much spectrum.

In addition, Suite 12 filed comments, including a detailed technical analysis, as recently as last Wednesday in response to the Supplemental Comments filed by Motorola Satellite Communications, Inc. on November 22, 1993 which shows that the cumulative effect of interference from LMDS hubs would cause harmful interference to IRIDIUM satellite receivers irrespective of the location of the feeder link gateways. Motorola has not had sufficient time since receiving this filing late last week to fully analyze the technical arguments contained in Suite 12's comments. However, a cursory review of that filing indicates, for example, that Suite 12 has a misconception as to the power that will be transmitted at IRIDIUM gateways. Motorola designed the IRIDIUM system to operate with the minimum power needed to achieve acceptable performance. Uplink power adjustments are used to

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compensate for atmospheric losses and a relative constant power flux density is maintained at the satellite. However, uplink power is not available for suppression of interference. It should also be noted that Suite 12's latest submission contains new and modified data relating to the antenna gain curve and location of LMDS stations that should help to better define the interference. Motorola would like to file a detailed response to Suite 12's comments in order to ensure that the record in this proceeding is accurate on this issue, but it is concerned that this will be a futile effort if the Commission plans to consider a Report and Order at its meeting next week. Given the real potential for LMDS systems to interfere with the feeder links of what will be a \$3.5 billion satellite system, the Commission must not rush to judgment on this critical sharing issue.

Consequently, the Coalition respectfully requests the Commission to (1) hold action in Docket 92-297 in abeyance until Coalition members and other interested parties have had sufficient time to respond to the issues raised in the above ex parte filings and January 5, 1994 technical analysis; or (2) issue a Further Notice of Proposed Rulemaking in which the ex parte and other filings are subject to public comment before the Commission reaches a definitive decision in Docket 92-297.^{1/}

Very truly yours,

CALLING COMMUNICATIONS CORPORATION



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^{1/} Another major satellite company, Hughes Communications Galaxy, Inc. ("Hughes"), recently filed an application for a fixed communications satellite system to use 1 GHz of the 2.5 GHz now available in the Ka band for the Fixed Satellite Service. We understand that Hughes has had discussions with the FCC staff expressing its general concerns about the compatibility of the Local Multipoint Distribution Service with fixed satellite services in the Ku band.

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